

## BILL ANALYSIS

Senate Research Center

S.B. 503  
By: Sims  
Natural Resources  
6-30-93  
Enrolled

### BACKGROUND

Currently, Section 201.026, Agriculture Code, empowers the State Soil and Water Conservation Board to plan, implement and manage programs and practices to abate agricultural and silvicultural nonpoint source pollution.

### PURPOSE

As enrolled, S.B. 503 designates the Soil and Water Conservation Board as lead agency for the state for programs regarding agricultural or silvicultural nonpoint source pollution, provides for the establishment of a water quality management plan certification program for development, approval and certification of water quality management plans for agricultural and silvicultural lands. This bill also establishes a cost-share assistance program for soil and water conservation land improvement measures.

### RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the State Soil and Water Conservation Board under SECTION 1 (Sec. 201.026(c), Agriculture Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.026, Agriculture Code, as follows:

Sec. 201.026. NONPOINT SOURCE POLLUTION. (a) Provides that the State Soil and Water Conservation Board (state board) is the lead agency in this state for activity relating to abating agricultural and silvicultural nonpoint source pollution. Requires other state agencies with responsibility for abating agricultural and silvicultural nonpoint source pollution to coordinate any abatement programs and activities with the state board.

(b) Requires the state board to represent the state before the federal Environmental Protection Agency or other federal agencies on a matter relating to agricultural or silvicultural nonpoint source pollution. Prohibits anything herein from impairing the ability of the General Land Office (GLO) to represent the state before any federal agency in matters relating to the state's participation in the Federal Coastal Zone Management Program. Prohibits anything herein from impairing the ability of the Texas Water Commission to represent the state before any federal agency in matters relating to the state's overall participation in the Federal Water Pollution Control Act.

(c) Requires the state board to establish a water quality management plan certification program that provides, through local soil and water conservation districts (district), for the development, supervision, and monitoring of individual water quality management plans for agricultural and silvicultural lands in an area that the state board identifies as having or having the potential to develop agricultural or silvicultural nonpoint source water quality problems or an area within the "coastal zone" designated by the Coastal Coordination Council. Requires each plan to be developed, maintained, and implemented under rules and criteria adopted by the state board and comply with state water quality standards established by the commission. Requires the state board to certify a plan that satisfies the state board's rules and criteria and complies with state water quality standards established by the commission. Provides that the Texas Water Commission has the sole exclusive authority to set water quality standards for all water in the state.

(d) Requires complaints concerning a violation of a water quality management plan or a violation of a law or rule relating to agricultural or silvicultural nonpoint source pollution under the jurisdiction of the state board to be referred to the state board. Requires the state board, in cooperation with the district, to provide for the investigation of the complaint. Requires the state board, in consultation with the district, to either determine that further action is not warranted or to develop and implement a corrective action plan to address the complaint on completion of the investigation. Provides that, if the person about whom the complaint has been made fails or refuses to take corrective action, the state board shall refer the complaint to the Texas Natural Resource Conservation Commission.

**SECTION 2.** Amends Chapter 201, Agriculture Code, by adding Subchapter I, as follows:

**SUBCHAPTER I. COST-SHARE ASSISTANCE PROGRAM FOR SOIL AND WATER CONSERVATION LAND IMPROVEMENT MEASURES.**

**Sec. 201.301. CREATION OF PROGRAM.** Requires the state board to administer a cost-share assistance program (program) for soil and water conservation land improvement measures (measures).

**Sec. 201.302. USE OF FUNDS.** (a) Authorizes the state board to provide cost-share assistance (assistance) to landowners or operators for the installation of measures consistent with the purpose of controlling erosion, conserving water, or protecting water quality.

(b) Authorizes the state board to employ and contract with and provide for the compensation of personal and to take any other action necessary to implement this subchapter.

(c) Authorizes the state board to reimburse a conservation district for a reasonable cost the district incurs in administering this subchapter.

**Sec. 201.303. ALLOCATION OF FUNDS.** (a) Authorizes the state board to allocate funds under this subchapter among particular measures or among areas of the state for each of the purposes provided by Section 201.302.

(b) Authorizes the state board to allocate funds among districts to pay the state's share of the costs of installing eligible measures on agricultural lands within the district and to adjust allocations as needs change in order to achieve the most efficient use of funds.

(c) Authorizes a district to submit a request for the allocation of assistance funds to the state board. Requires a request to be submitted in the manner provided by the state board.

(d) Requires the state board to set priorities for allocation of assistance funds consistent with the purposes provided by Section 201.302. Authorizes the state board to consider local priorities and needs in establishing priorities.

**Sec. 201.304. ELIGIBILITY FOR COST-SHARE ASSISTANCE.** Authorizes the state board to require that a person own or operate agricultural land within the boundaries of the conservation district providing assistance, have a conservation plan approved by the district covering the land for which the measure is proposed, and include in the conservation plan practices for which the assistance is proposed, as a condition for assistance under this subchapter.

**Sec. 201.305. ELIGIBLE SOIL AND WATER CONSERVATION LAND IMPROVEMENT MEASURES.** (a) Requires the state board to determine measures eligible for assistance and requires the measures to be consistent with the purposes

provided by Section 201.302 of this code. Authorizes the state board to consider local priorities and needs in determining eligible measures.

(b) Requires each district receiving an allocation of assistance funds to designate the measures that are eligible for assistance within its boundaries, subject to approval by the state board.

Sec. 201.306. APPLICATION FOR COST-SHARE ASSISTANCE. Authorizes an application for assistance to be made on forms provided by the state board or by other means approved by the state board.

Sec. 201.307. APPROVAL OF APPLICATION. (a) Authorizes a district to approve an application for assistance if the measure is consistent with the purposes provided by Section 201.302 of this code and the priorities established under Section 201.303 of this code.

(b) Prohibits a district from approving application for assistance funds in excess of the funds allocated to the district by the state board.

Sec. 201.308. COST-SHARE RATE. (a) Requires the state board to establish the cost-share rates for all eligible measures.

(b) Prohibits the state board from bearing more than 75 percent of the cost of a measure.

(c) Prohibits a person from receiving assistance for a measure if the person is simultaneously receiving assistance for the measure from another source.

(d) Authorizes the state board to grant an exception to Subsection (b) if the board finds the higher share necessary to obtain adequate implementation of a certain measure.

(e) Authorizes the state board to grant an exception to Subsection (c) if the state board finds that participation with another program will enhance the efficiency and effectiveness of a measure and lessen the state's financial commitment to the measure.

Sec. 201.309. STANDARDS AND SPECIFICATIONS. Requires the state board to establish standards and specifications for measures eligible for assistance.

Sec. 201.310. COST-SHARE PAYMENTS. (a) Requires the state board to make each cost-share payment directly to an eligible person.

(b) Authorizes the state board to require certification by the district in which a measure has been installed to determine if the measure has been completely installed and satisfies the standard and specifications established by the state board, before making a payment to an eligible person for the measure.

Sec. 201.311. DESIGNATION OF LOCAL DISTRICTS. Authorizes the state board to designate one or more district to administer this chapter locally.

SECTION 3. Amends Section 26.121(a), Water Code (effective until delegation of NPDES permit authority to the Texas Natural Resource Conservation Commission), as follows:

(a) Prohibits a person from discharging certain waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the discharge complies with the person's certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code.

SECTION 4. Amends Section 26.121(a), Water Code (effective upon delegation of NPDES

permit authority of the Texas Natural Resource Conservation Commission), as follows:

(a) Prohibits a person from discharging certain waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the discharge complies with the person's certified water quality management plan approved by the State Soil and Water Conservation Board, as provided by Section 201.026, Agriculture Code.

SECTION 5. Amends Chapter 26D, Water Code, by adding Section 26.1311, as follows:

Sec. 26.1311. DUTY OF THE STATE SOIL AND WATER CONSERVATION BOARD.

(a) Provides that the State Soil and Water Conservation Board and its authorized agents are responsible for the abatement and prevention of pollution resulting from agricultural or silvicultural nonpoint source pollution, as provided by Section 201.026, Agriculture Code.

SECTION 6. Emergency clause.

Effective date: upon passage.